

80



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,401	03/31/2000	James L. Boney	07442.0010-02	2208

32026 7590 05/18/2005

NIXON PEABODY LLP- ELEMENT K APPLICATIONS
NIXON PEABODY LLP
P.O. BOX 31051
ROCHESTER, NY 14603-1051

EXAMINER

HARRIS, CHANDA L

ART UNIT	PAPER NUMBER
----------	--------------

3714

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/540,401

Applicant(s)

BONEY ET AL.

Examiner

Chanda L. Harris

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

In response to the Amendment filed 9/20/04, Claims 5-35 are pending. Claims 1-4 are cancelled.

Specification

The disclosure is objected to because of the following informalities: Page 1, line 1: The continuity data appears to be incorrect. This application appears to be a continuation-in-part of 09/365,243 instead of 09/364,046. Please verify.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Greaves et al. (US 6,195,687) and Berger et al. (US 6,196,846).

1. [Claims 5,16,26]: Regarding Claims 5, 16, and 26, Freeman discloses at least one client that provides control data from at least one of the plurality of clients, the control data associated with tasks to be performed for a training exercise. See Col.2:

63-Col.3: 3. Freeman discloses a device management system that provides low-level commands (i.e. assembly or machine language) for the electronic training devices (e.g. online modules, chat sessions, conferences, course content, TV WEB browsers, WEB access device, workstations, etc.) based on the control data from the at least one client to implement functions that change a configuration of the electronic devices. See Col.5: 42-61, Col.6: 25-34, Col.9: 19-24. Freeman discloses a control system (i.e. server) configured to access a first set of two or more of the electronic training devices based upon one or more requirements of the training exercise, the control system manipulating the first set of the electronic training devices according to the control data using the low-level commands provided by the device management system to perform portions of the training exercise. See Col.5: 42-61 and Col.6: 25-34. Examples of requirements are adherence to a protocol such as the Internet protocol and the capability of conducting training exercises off-line.

Freeman does not disclose expressly wherein the changed configuration (e.g. slave node device used as a teaching aid during a classroom session or a test administering element) results in manipulating fundamental operations of the electronic training devices that the electronic training devices are originally configured to perform (i.e. state of control predefined (by the system)). However Greaves teaches such in Col.2: 15-36 and 3: 22-35. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Freeman, in light of the teaching of Greaves, in order to enable custom configuration of slave devices for a particular teaching environment.

In the previous office action, it was the Examiner's position that Freeman in combination with Greaves discloses and suggests control data comprising at least one task to be performed by electronic training devices where the at least one task comprises execution of at least a portion of a training exercise and providing low level commands based on the control data to implement functions that change a configuration of the electronic devices where the changed configuration results in manipulating fundamental operations of the electronic training devices that the training electronic devices are originally configured to perform.

Examiner agrees that the time/locale control criteria in Greaves are not tasks to be performed by the slave node devices. However, the slave node devices in Greaves perform system-level and application-level operations such as teaching aid or a test administering element. See Col.2: 1-7.

Freeman does not disclose expressly a mentor system (i.e., agent workstation) that monitors the control data from the client, wherein the mentor system can control the control data from the at least one client. However, Berger teaches such in Col.2: 26-43. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a mentor system that monitors the control data from the client, wherein the mentor system can control the control data from the at least one client into the method and system of Freeman, in light of the teaching of Berger, in order to enable a mentor to reinforce verbal instructions provided over the voice network with visual instructions provided over the data network and to provide context-sensitive and user-specific training.

2. [Claims 6, 17, 27]: Regarding Claims 6,17, and 27, Freeman discloses wherein the control system is further configured to access a second set (e.g. online experts, online textbooks) of one or more electronic training devices based upon the requirements of the training exercise, the control system manipulating the first set and the second set of the electronic training devices for the training exercise. See Col.6: 25-34.
3. [Claims 7,18,28]: Regarding Claims 7,18, and 28, Freeman does not disclose expressly wherein the control system comprises a resource control system (i.e., the service) receives overhead information from a server (i.e., master node element), the overhead information representing a generic set of commands (i.e., instructions to the service) to control the first set of electronic devices for the training exercise, the resource control system interpreting the overhead information to manipulate at least one of a first type (e.g., slave nodes that are assigned to the master node for the duration of a specific time period) and a second type of electronic training devices (e.g., slave nodes that are located in a set of physical locations controlled by the master node) the first set. However, Greaves teaches such in Col.2: 1-19. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Freeman, in light of the Greaves, in order to enable electronic devices to be configured for specific applications or environments.
4. [Claims 8-9, 19-20, 29-30]: Regarding Claims 8-9,19-20, and 29-30, Freeman discloses wherein the at least one client comprises a computer device and wherein the

first set or a second set of the electronic training devices comprise computer network components. See Col.5: 51-57.

5. [Claims 10, 21,31]: Regarding Claims 10,21, and 31, Freeman discloses wherein the first set or a second set of the electronic training devices execute at least one instruction in the control data. See Col.5: 38-39.

6. [Claims 11, 22,32]: Regarding Claims 11,22, and 32, Freeman discloses wherein the first or the second set of the electronic training devices provide one or more results (e.g. course content) of the at least one instruction execution back to the at least one client through the interface system, the interface system translating the results from a first format understood by the at least one client, the communication system transmitting the translated results back to the at least one client. See Col.5: 42-50.

7. [Claims 12, 23,33]: Regarding Claims 12,23, and 33, Freeman discloses wherein the communication system authorizes and provides the at least one client with access to the first set or a second set of the electronic training devices. See Col.6: 25-34.
Authorization of the client is considered to be an inherent feature of Freeman's invention.

8. [Claim 13]: Regarding Claim 13, Freeman discloses wherein the communication system is operatively coupled to the at least one client by a network. See Col.5: 1-4.

9. [Claims 14,24,34]: Regarding Claims 14,24, and 34, Freeman discloses wherein the interface system translates the control data from a first format understood by the at least one client to a second format understood by a first set or a second set of the electronic training devices. See Col.5: 10-17.

10. [Claims 15, 25,35]: Regarding Claims 15,25, and 35, Freeman discloses an infrastructure control system (i.e. operating system) that communicates with the control system (i.e. host system) to enable a second set of the electronic training devices to be used with the first set for the training exercise. See Col.4: 33-51.

Response to Arguments


Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Chanda L. Harris
Primary Examiner
Art Unit 3714